

AO 106 (Rev. 7/87) Affidavit for Search Warrant

# United States District Court

DISTRICT OF DELAWARE

## APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

### In the Matter of the Search of

(Name, address or brief description of person or premises to be searched)

[REDACTED]  
Frederica, Delaware 19734

(In the town of Bowers Beach, Delaware)

As More Particularly Described in Attachment A

Misc. No. 05- 119M - MPT

I, Scott Curley, ATF, being duly sworn depose and say: I am a Special Agent with the Bureau of Alcohol, Tobacco & Firearms, and have reason to believe that

\_\_\_\_\_ on the person of or X on the property or premises known as (name, description and/or location)

[REDACTED], Frederica, Delaware 19734 (in the town of Bowers Beach, Delaware) (as more particularly described in Attachment A)

in the District of Delaware

there is now concealed a certain person or property, namely (describe the person or property to be seized) see Attachment B

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rule of Criminal Procedure)

property that constitutes evidence of the commission of a criminal offense.

The facts to support a finding of Probable Cause are as follows:

See attached affidavit of S/A Scott Curley (Attachment C), which is incorporated herein by reference.

Continued on the attached sheets and made a part hereof. X Yes \_\_\_ No

h. C. Curley - SA - ATF  
Signature of Affiant  
Special Agent Scott Curley

Sworn to before me, and subscribed in my presence

October 20, 2005

Date

Honorable Mary Pat Thyng  
United States Magistrate Judge  
District of Delaware

Name and Title of Judicial Officer

at Wilmington, Delaware

City and State

[Signature]  
Signature of Judicial Officer

FILED

DEC 21 2005

U.S. DISTRICT COURT  
DISTRICT OF DELAWARE

## Attachment A

### PREMISES TO BE SEARCHED

The residence of BART LEE MARTINEZ, located at [REDACTED] Frederica, DE, including all outbuildings and appurtenances thereto and the curtilage thereof, in the town of Bowers Beach, in the County of Kent, in the Judicial District of Delaware.

### DESCRIPTION OF THE PREMISES TO BE SEARCHED

The residence of BART LEE MARTINEZ is located at located at [REDACTED] Frederica, DE, in the town of Bowers Beach. Traveling east bound on [REDACTED] the residence is the [REDACTED] home on the [REDACTED]. The address for the residence [REDACTED] is affixed to the front doorway of the address as well as affixed to the mail box which is directly across the street from the residence. The premises is a single story, cream colored stucco exterior cottage with shingle roof and window on the left and right of the main entrance. The front of the building is on the buildings southern side and faces [REDACTED]. There is a side entrance on the eastern side of the building and the door also faces south. Both entrances have a metal-framed storm door with glass panels on the top. The doors open out. The storm door on the main entrance is hinged on the right hand side of the entrance with the numbers [REDACTED]. There is a tree in the southwest corner of the residences property, a decorative lighthouse in the south east corner and a UHF/VHF TV antenna on the northwest side of the property. THERE IS A GRAY PLYWOOD SHED LOCATED IN THE REAR OF THE RESIDENCE. - SCC 10/20/05

## **Attachment B**

### **DESCRIPTION OF EVIDENCE TO BE SEARCHED FOR AND SEIZED**

1. Records that establish the persons who have control, possession, custody or dominion over the property and vehicles searched and from which evidence is seized, such as: personal mail, checkbooks, personal identification, notes, other correspondence, utility bills, phone records, rent receipts, payment receipts, financial documents, keys, photographs (developed or undeveloped), leases, mortgage bills, and vehicle registration information or ownership warranties.
2. All documents relating to the acquisition and disposition of firearms by Bart LEE MARTINEZ including but not limited to receipts, notes, correspondences, faxes, pawn tickets and pawn broker reports for the purchase, acquisition, sale pawning or disposition of firearms.
3. Firearms and other items pertaining to the possession of firearms, including gun cases, locked safes that could contain firearms or ammunition, ammunition, ammunition magazines, holsters, spare parts for firearms, firearms cleaning equipment, photographs of firearms or of persons in possession of firearms, and receipts for the purchase and/or repair of all these items.
4. All illegal controlled substances as including but not limited to Heroin, Cocaine and Marijuana.

5. All items of drug paraphernalia such as pipes, bowls, rolling papers, mirrors, razors, spoons, baggies, capsules, scales, grinders and other items used to ingest, inhale, or inject, illegal drugs.

6. All documents relating to the acquisition and disposition of controlled substances by Bart LEE MARTINEZ including but not limited to receipts, notes, faxes and correspondences.

7. All of the above listed items to be seized being fruits, instrumentalities and evidence of violations of Title 18, United States Code, Part I, Chapter 44, Section 922 (g)(3), relating to possession of firearms by an illegal drug user.

**ATTACHMENT C**

**AFFIDAVIT OF PROBABLE CAUSE  
FOR SEARCH WARRANT**

Your Affiant, Scott C. Curley, being a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, being duly sworn, does depose and state:

1. Your Affiant is a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, & Explosives, United States Department of Justice, and has been so employed since September 10, 2001. Your Affiant was previously employed as a police officer with the Pittsburgh, Pennsylvania Bureau of Police from February 1993 to September 2001. As a Pittsburgh Police officer, your Affiant was assigned to the Drug Enforcement Administration as a Federally Deputized Task Force Officer from June 1997 to June 1999. Prior to that, your Affiant was employed by the Palmyra Borough Police Department in Palmyra, PA from February 1992 to February 1993. I have been trained in various aspects of law enforcement, including the investigation of state and federal drug and firearms offenses. I have participated in investigations, which have resulted in the arrest of individuals who have been illegal users of controlled substances as well as persons prohibited from possessing firearms because of their illegal use of drugs.

2. Your Affiant makes this affidavit in support of a Search Warrant for the residence of BART LEE MARTINEZ, located at [REDACTED] Frederica, DE 19734. This affidavit is based on your Affiant's personal knowledge and observations as well as information provided to him by other law enforcement officers. Your Affiant is fully aware of the circumstances of this case and is personally involved in the facts set forth

within this affidavit. Your Affiant submits this affidavit as probable cause to believe that BART LEE MARTINEZ is in violation of Title 18, United States Code, Part I, Chapter 44, Section 922 (g)(3), relating to possession of a firearm and/or ammunition by drug user, and that evidence of this crime is present at [REDACTED] Frederica, DE 19734.

3. On October 16, 2005, at approximately 7:30pm your affiant responded to Delaware State Route 1 South bound, 1 mile south of exit 114 to assist Operation Disarm Task Force Officer Marc Gray and members of the Smyrna, Delaware police department with a traffic stop. TFO Gray related that during traffic stop the officers had recovered from the vehicle operated by BART LEE MARTINEZ, 29 stamp baggies of suspected heroin in 3 bundles, marked BMW, a marijuana cigarette with a trace amount of cocaine sprinkled inside of the cigarette, a fully loaded Springfield Armory brand, ultra compact, single action .45ACP pistol, and 2 fully loaded spare magazines, for a total of 19 rounds of ammunition. Your affiant is aware that ammunition is normally sold in boxes of 20 or boxes of 50.

4. Your affiant had the opportunity to interview the suspect, BART LEE MARTINEZ at the Smyrna Delaware Police station. MARTINEZ was read his Miranda warnings and agreed to waive his rights and speak with investigators. MARTINEZ was further advised by your affiant that any intentional misrepresentation of a material fact to a federal investigator was a felony violation of Federal law.

5. BART LEE MARTINEZ stated that he currently resides at [REDACTED] Frederica, DE 19734 with his live in [REDACTED] and [REDACTED] children.



6. Your affiant contacted personnel from the Delmarva Power in reference to person responsible for utility bills for [REDACTED] Frederica, DE 19734. Delmarva Power advised your affiant that BART LEE MARTINEZ, was responsible for payment of the utilities bill at [REDACTED] Frederica, DE since July 18, 2005.

7. BART LEE MARTINEZ stated that he had used a stamp bag of heroin earlier that evening. An empty stamp bag of heroin was recovered from the vehicle operated by BART LEE MARTINEZ, by Law enforcement officers during the traffic stop. MARTINEZ stated that he has tried heroin on several occasions in the past few months.

8. MARTINEZ told investigators that he is an illegal user of marijuana, on almost a daily basis. MARTINEZ stated that his marijuana use has been ongoing for several years now.

9. BART LEE MARTINEZ told investigators that he has several firearms including long guns and handguns, and that he keeps them at his residence at [REDACTED] Frederica, Delaware. MARTINEZ stated that he is not a hunter, but enjoys shooting.

10. Your Affiant contacted personnel from Shooters Choice, a gun range outside of Dover, Delaware. Shooters Choice confirmed that Martinez had previously purchased 2 boxes of 10mm ammunition and firearm accessories from their store in April of 1999.


11. Your affiant is aware based upon his training and experience as well as conversations from other law enforcement officers that virtually no firearms or ammunition have ever been manufactured in the state of Delaware. Therefore any firearms or ammunition BART LEE MARTINEZ

is keeping at his residence necessarily traveled in interstate commerce prior to being possessed by MARTINEZ

Based on the foregoing facts, your Affiant submits that there is probable cause to believe that contained within [REDACTED] Ferderica, DE 19734 is evidence of violations of Title 18, United States Code (USC), Section 922 (g)(3), relating to the possession of a firearm or ammunition by a drug user and therefore respectfully requests that the Court issue a Search Warrant for the Premises.

Sworn To and Subscribed Before Me This  
20th Day of October 2005

  
\_\_\_\_\_  
Honorable  
U. S. Magistrate Judge

 - SA - ATF  
\_\_\_\_\_  
Scott C. Curley  
Special Agent, ATF